



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,706	11/26/2003	Marc Kevin Jordan	SIG000106	6583

34399 7590 06/09/2006

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

EXAMINER

PATEL, ANAND B

ART UNIT	PAPER NUMBER
----------	--------------

2116

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/723,706	Applicant(s) JORDAN ET AL.	
	Examiner Anand Patel	Art Unit 2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 22-31 is/are allowed.
- 6) ☒ Claim(s) 12, 13, 15, 16, 18-21, 32, 33, 35, 36 and 38-41 is/are rejected.
- 7) ☒ Claim(s) 14, 17, 34 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 12-13, 15-16, 18-21, 32-33, 35-36, 38-41 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-26 of copending Application No 10/723665 in view of US Patent No 6601167 to Gibson et al.

- Claims 12, 32 claim the same invention as claims 1, 14 of Application No 10/723665 except for the retrieval of a first boot algorithm from a read only memory and the execution of the first boot algorithm to access a second boot algorithm. Gibson et al teach these features in column 2, lines 25-44. An advantage of the system taught by Gibson et al is the ability to use a less costly, more space efficient memory without hardware additions. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the instant application with the booting method as taught by Gibson et al for the reasons specified above.
- Claims 13, 33 contain essentially the same limitations as claims 1, 14, respectively, of Application No 10/723665.

Art Unit: 2116

- Claims 15, 35 contain essentially the same limitations as claims 7, 20, respectively, of Application No 10/723665.
- Claim 16 contains essentially the same limitations as claims 7-8 of Application No 10/723665.
- Claims 18, 38 contain essentially the same limitations as claims 6, 19, respectively, of Application No 10/723665.
- Claims 19, 39 contain essentially the same limitations as claims 2, 15, respectively, of Application No 10/723665.
- Claims 20, 40 contain essentially the same limitations as claims 9, 22, respectively, of Application No 10/723665.
- Claims 21, 41 contain essentially the same limitations as claims 10, 23, respectively, of Application No 10/723665.
- Claim 36 contains essentially the same limitations as claims 20-21 of Application No 10/723665.

This is a provisional obviousness-type double patenting rejection.

Allowable Subject Matter

3. Claims 1-11, 22-31 are allowed. US Patent No 6601167 to Gibson et al discloses a method for booting up a multiple function device, the method comprising: detecting activation of the multiple function device, retrieving a first boot algorithm from read only memory of the multiple function device in response to detecting the activation of the multiple function device, executing the first boot algorithm based on booting inputs to identify a location of a second boot algorithm, and executing the second boot algorithm to retrieve one of a plurality of functional algorithms. Prior art fails to disclose or suggest determining whether the second boot algorithm is stored at the identified location, determining whether the second boot algorithm is executable when the second boot algorithm is stored at the identified location, and executing the second boot algorithm when the second boot algorithm is executable.

Art Unit: 2116

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Patel whose telephone number is (571) 272-7211. The examiner can normally be reached on Mon-Fri 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ABP


LYNNE H. BROWNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100